



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,800	10/23/2001	Andrew R. Ferlitsch	SAL 1028	4802
52894	7590	04/20/2006	EXAMINER	
KRIEGER INTELLECTUAL PROPERTY, INC.			LAM, ANDREW H	
P.O. BOX 1073			ART UNIT	
CAMAS, WA 98607			PAPER NUMBER	

2625

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/003,800	FERLITSCH, ANDREW R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew H. Lam	2625	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

- This action is responsive to the following communication: an RCE filed on 03/10/06.
- Claims 1-17 are pending in the present application. Claims 1, 5-12 and 15- 17 are amended.

### ***Claim Objections***

Claim 7 is objected to because of the following informalities: The word "compatability" should be "compatibility". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 16 and 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claimed invention is a computer related invention. The Computer-Implemented Invention Guidelines issued by the U.S. Patent and Trademark Office describe the procedures for examining such inventions.

The first step is to determine whether the invention as defined by the claims falls within one of the three following categories of unpatentable subject matter: (1) Functional descriptive material such as a data structure per se or a computer program per se, (2) Non-functional descriptive material such as music, literary works or pure data, embodied on a computer readable medium; or (3) A natural phenomenon such as

energy or magnetism. The invention as defined by the claims is not a natural phenomenon or pure data, however, it is a computer program per se, which does not mount/store on any computer-readable medium; therefore, these claims are rejected for non-statutory basis.

Claim 16 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The computer program product claimed is merely a set of instructions per se. Since the computer program is merely a set of instructions not embodied on a computer readable medium to realize the computer program functionality, the claimed subject matter is non-statutory. The examiner recommends the applicant to replace "a computer-readable medium comprising instructions" with "a computer readable medium comprising computer executable instructions" so it compliances with 35 U.S.C. 101.

Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The data signal claimed is merely a set of instructions per se. Since the data signal is merely a set of instructions not embodied on a computer readable medium to realize the computer program functionality, the claimed subject matter is non-statutory.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yacoub (U.S. Patent No. 6,452,692) hereinafter Yacoub in view of Luman (U.S. Patent No. 6,700,678) hereinafter Luman.

Regarding claim 1, Yacoub discloses a method for recovering a failed print task comprising: sending a print task to a selected printer (fig. 3, step 350, the job is spooled to the appropriate printer) that is part of a network comprising at least one computer (fig. 3, client requests print job, step 300) device capable of generating a print task (col. 7, lines 16-20), said network also comprising and a plurality of printing devices (col. 8, lines 8-10); monitoring said print task for a print task failure (col. 7, lines 55-57); and saving said print task when a print task failure occurs (col. 8, lines 2-4, the server select a different printer when an error is occurred, then the job is spooled to the selected printer).

Yacoub does not disclose expressly a method for monitoring said network for a successful print task; identifying an alternate printer to which said successful print task was sent; and resending said saved print task to said alternate printer.

Luman discloses a method for monitoring said network (col. 4, lines 15-20 and col. 5, lines 44-59) for a successful print task (fig. 3); identifying (col. 4, lines 48-50) an alternate printer to which said successful print task was sent (col. 5, lines 44-59); and resending said saved print task to said alternate printer (col. 5, lines 44-59 and col. 7, lines 10-17).

Yacoub and Luman are combinable because they are from a similar field of endeavor of providing alternate printer when print error occurred. At the time of the

invention, it would have been obvious to a person of ordinary skill in the art to combine the step of monitoring the network to see if an alternate printers can be used to complete a failed print task, i.e., the alternate printers sends a positive affirmation that they can complete the job as taught by Luman with the step of monitoring for print error and spooling (saving) the print task when an error occurred. The motivation for doing so would have been to be able to assure that the failed print job can be completed by using an alternate printer that is compatible thereby, processing the failed print job without the user having to resend the failed job.

Regarding claim 2, the combination discloses (Yacoub) the method of claim 1 wherein said monitoring for a print task failure (col. 7, lines 55-57, in fig. 3 at step 370, the server is continuously checking for a print error message from the printer), said saving (col. 8, lines 2-4, the server select a different printer when an error is occurred, then the job is spooled to the selected printer), said monitoring for a successful print task (col. 10, lines 24-26, the server 460 query the database and re-compute to determine the next available printer, see fig. 4) and said resending are controlled by a print system component (fig. 5, server 680).

Regarding claim 3, the combination discloses (Yacoub) the method of claim 2 wherein said print system component is a print processor (fig. 5, server 680).

Regarding claim 4, the combination discloses (Yacoub) the method of claim 2 wherein said print system component is a spooler (col. 7, line 31, job is spooled to the server 330, see fig. 3).

Regarding claim 5, the combination discloses (Yacoub) the method of claim 1 wherein said resending only occurs when said alternate printer is the same printer as said selected printer (col. 15, lines 27-30, if the user wants to wait, then the printer will send an acknowledgment message when the printer is not busy or when it is ready).

Regarding claim 6, the combination discloses (Luman) the method of claim 1 further comprising determining the characteristics of said successful print task and said failed print task and comparing said successful print task characteristics to said failed print task characteristics to determine the compatibility of said alternate printer for said failed print task and wherein said resending only occurs when said alternate printer is compatible with said failed print task (col. 7, lines 10-17).

Regarding claim 7, Yacoub discloses a method for recovering a failed print task comprising: sending a print task to a selected printer (fig. 3, step 350, the job is spooled to the appropriate printer) that is part of a network comprising at least one computing (fig. 3, client requests print job, step 300) device capable of generating a print task, said network also comprising a plurality of printing devices (col. 8, lines 8-10); monitoring said print task for a print task failure (col. 7, lines 55-57, in fig. 3 at step 370, the server is continuously checking for a print error message from the printer); and saving said print task when a print task failure occurs (col. 8, lines 2-4, the server select a different printer when an error is occurred, then the job is spooled (saved) to the selected printer);

Yacoub does not discloses expressly a method for monitoring said network for a successful print task that originates from a different computing device than the

computing device from which said print task originated; identifying an alternate printer to which said successful print task was sent; analyzing a characteristic of said successful print task to determine the compatibility of said alternate printer; and resending said saved print task to said alternate printer when said alternate printer is compatible with said print task.

Luman discloses a method for monitoring said network (col. 4, lines 15-20 and col. 5, lines 44-59) for a successful print task that originates from a different computing device than the computing device from which said print task originated (fig. 3); identifying an alternate printer to which said successful print task was sent (col. 5, lines 44-59); analyzing a characteristic of said successful print task to determine the compatibility of said alternate printer (col. 5, lines 50-55); and resending said saved print task to said alternate printer when said alternate printer is compatible with said print task (col. 5, lines 55-59).

Yacoub and Luman are combinable because they are from a similar field of endeavor of providing alternate printer when print error occurred. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the step of monitoring the network to see if an alternate printers can be used to complete a failed print task, i.e., the alternate printers sends a positive affirmation that they can complete the job as taught by Luman with the step of monitoring for print error and spooling (saving) the print task when an error occurred. The motivation for doing so would have been to be able to assure that the failed print job can be completed by



using an alternate printer that is compatible thereby, processing the failed print job without the user having to resend the failed job.

Regarding claim 8, the combination discloses the method of claim 7 wherein said analyzing comprises comparing the characteristics of said successful print task to the characteristics of said print task (Luman, col. 7, lines 1-5).

Regarding claim 9, the combination discloses the method of claim 7 further comprising comparing the capability (Luman, col. 7, lines 5-10) of said printer to the requirements of said failed print task.

Regarding claim 10, the combination discloses the method of claim 7 wherein said identifying comprises determining the location (Luman, col. 4, lines 48-50) of said printer and said analyzing comprises querying (Luman, col. 6, lines 30-35) said printer for its capabilities and comparing said printer capabilities with the requirements of said failed print task.

Regarding claim 12, Yacoub discloses a method for recovering a failed print task comprising: sending a print task to a selected printer (fig. 3, step 350, the job is spooled to the appropriate printer) that is part of a network comprising at least one computer (fig. 3, client requests print job, step 300) device capable of generating a print task (col. 7, lines 16-20), said network also comprising and a plurality of printing devices (col. 8, lines 8-10); monitoring said print task for a print task failure (col. 7, lines 55-57, in fig. 3 at step 370, the server is continuously checking for a print error message from the printer); and saving said failed print task occurs (col. 8, lines 2-4, the server select a

different printer when an error is occurred, then the job is spooled to the selected printer).

Yacoub does not disclose expressly a method for monitoring said print system for a successful print task; analyzing said successful print task characteristics to determine the capability of the printer to which said successful print task was sent; evaluating said printer's capability to determine whether said printer can print said failed print task; modifying said failed print task to allow printing on said printer when said print task can not otherwise be printed on said printer; and sending said modified, failed print task to said printer.

Luman discloses a method for monitoring said print system for a successful print task (col. 4, lines 15-20 and col. 5, lines 44-59); analyzing said successful print task characteristics to determine the capability of the printer to which said successful print task was sent (col. 5, lines 50-55); evaluating said printer's capability to determine whether said printer can print said failed print task (col. 5, lines 50-55); modifying (col. 5, lines 39-42) said failed print task to allow printing on said printer when said print task can not otherwise be printed on said printer; and sending said modified, failed print task to said printer (col. 5, lines 55-59).

Yacoub and Luman are combinable because they are from a similar field of endeavor of providing alternate printer when print error occurred. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the step of monitoring the network to see if an alternate printers can be used to complete a failed print task, i.e., the alternate printers sends a positive affirmation that

they can complete the job as taught by Luman with the step of monitoring for print error and spooling (saving) the print task when an error occurred. The motivation for doing so would have been to be able to assure that the failed print job can be completed by using an alternate printer that is compatible thereby, processing the failed print job without the user having to resend the failed job.

Regarding claim 13, the combination discloses the method of claim 12 wherein said modifying comprises emulating at least one element of (Luman, col. 5, lines 39-40) said print task in software that would otherwise have been performed by printer hardware.

Regarding claim 14, the combination discloses the method of claim 12 wherein said modifying comprises emulating page formatting in software (Luman, col. 5, lines 39-40).

Regarding claims 15, 16 and 17, Yacoub discloses a system (fig. 3, shows a system for recovering a failed print job) for recovering a failed print task comprising:

a first sender (fig. 2, user sends print job, step 200) for sending a print task to a selected printer (fig. 3, step 350, the job is spooled to the appropriate printer) that is part of a network comprising at least one computing device (fig. 3, client requests print job, step 300) capable of generating a print task, said network also comprising a plurality of print devices (col. 8, lines 8-10); a first monitor for monitoring a said print task for a print task failure(col. 7, lines 55-57, in fig. 3 at step 370, the server is continuously checking for a print error message from the printer); and storage for saving (col. 8, lines 2-4, the server select a different printer when an error is occurred, then the

Art Unit: 2625

job is spooled (saved) to the selected printer) a failed print task when a print task failure occurs.

Yacoub does not disclose expressly a second monitor for monitoring said network for a successful print task; an analyzer for analyzing said successful print task characteristics to determine the of the printer to which said successful print task was sent; an evaluator for evaluating said printer's capability to determine whether said printer can print said failed print; a sender for resending said saved, failed print task to said printer if said printer is capable of printing said failed print task.

Luman discloses a second monitor for monitoring said network (col. 4, lines 15-20 and col. 5, lines 44-59) for a successful print task; an analyzer for analyzing said successful print task characteristics to determine the of the printer to which said successful print task was sent (col. 5, lines 50-55); an evaluator for evaluating said printer's capability to determine whether said printer can print said failed print (col. 7, lines 5-10); a sender for resending said saved, failed print task to said printer if said printer is capable of printing said failed print task (col. 5, lines 55-59).

Yacoub and Luman are combinable because they are from a similar field of endeavor of providing alternate printer when print error occurred. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the step of monitoring the network to see if an alternate printers can be used to complete a failed print task, i.e., the alternate printers sends a positive affirmation that they can complete the job as taught by Luman with the step of monitoring for print error and spooling (saving) the print task when an error occurred. The motivation for doing

so would have been to be able to assure that the failed print job can be completed by using an alternate printer that is compatible thereby, processing the failed print job without the user having to resend the failed job.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yacoub and Luman further in view of Shah et al (U.S. Patent No. 6,618,167).

Regarding claim 11, Yacoub disclose a method for recovering a failed print task comprising: sending a print task to a selected printer (fig. 3, step 350, the job is spooled to the appropriate printer) that is part of a network comprising at least one computer (fig. 3, client requests print job, step 300) device capable of generating a print task (col. 7, lines 16-20), said network also comprising and a plurality of printing devices (col. 8, lines 8-10); monitoring said print task for a print task failure (col. 7, lines 55-57); saving said print task when a print task failure occurs (col. 8, lines 2-4, the server select a different printer when an error is occurred, then the job is spooled to the selected printer); prompting said user to choose to reprint said failed print task if said printer is capable of printing said failed print task (col. 3, lines 26-32); and resending said save, failed print task to said printer if said user has chosen to reprint said failed print task (col. 3, lines 26-32).

Yacoub does not disclose a method for monitoring said network for a successful print task; analyzing said successful print task characteristics to determine the capability of a printer to which said successful print task was sent; and evaluating said printer's capability to determine whether said printer can print said failed print task.

Luman discloses a method for monitoring said network for a successful print task (col. 4, lines 15-20 and col. 5, lines 44-59); analyzing said successful print task characteristics to determine the capability of a printer to which said successful print task was sent (col. 5, lines 50-55); and evaluating said printer's capability to determine whether said printer can print said failed print task (col. 5, lines 50-55).

Yacoub and Luman are combinable because they are from a similar field of endeavor of providing alternate printer when print error occurred. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the step of monitoring the network to see if an alternate printers can be used to complete a failed print task, i.e., the alternate printers sends a positive affirmation that they can complete the job as taught by Luman with the step of monitoring for print error and spooling (saving) the print task when an error occurred. The motivation for doing so would have been to be able to assure that the failed print job can be completed by using an alternate printer that is compatible thereby, processing the failed print job without the user having to resend the failed job.

The combination (Yacoub and Luman) does not disclose the method for prompting a user to prioritize a failed print task when a print task failure occurs; and saving said failed print task when its priority is sufficiently high.

Shah discloses that a customer can prioritize print job (col. 2, lines 32-35).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination (Yacoub and Luman) as per teaching of

the highest priority (most important print job) get printed first (col. 3, lines 55-56) after it has been recovery from failure as taught by the combination.

***Response to Arguments***

Applicant's arguments, see pages 10-12, filed 3/10/06, with respect to the rejection(s) of claims 1-10 and 12-17 under 102(e), and 11 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art references due to newly amended limitations as cited in claims 1, 5-12, and 15-17.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew H. Lam whose telephone number is (571) 272-8569. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly Williams can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Application/Control Number: 10/003,800

Page 15

Art Unit: 2625

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew L

4/13/04

K. Y. P.  
KING Y. POON  
PRIMARY EXAMINER